

Serial No. 10/627,882

Patent
57354-11USA**REMARKS**

In the Office Action of November 23, 2005, the Examiner has divided the claims into two (2) groups: Group I claims 1-18, drawn to libraries of polynucleotides, methods for making nucleic acid arrays, nucleic acid molecular hybridization assays, and kits; and Group II claims 19 and 20, drawn to methods for identifying cancerous cells.

Applicants traverse this requirement. Reconsideration and withdrawal thereof are earnestly requested.

Group I and II claims are related as product and process of use claims. The Examiner indicates that to search the above-mentioned two groups would create an undue burden for the USPTO. Applicants submit that search of two groups, which are closely related as products and process of use, is not burdensome on the Examiner. Therefore, Group II claims should be joined with the product claims and examined together.

However, Applicants acknowledge the Examiner's reminder regarding *In re Ochiai* and *In re Brouwer*. Therefore, the restriction requirement separating out the process of use claims should be held in abeyance until allowable subject matter is found in the product claims, and then rejoined and considered at that time, as provided for under *In re Ochiai* and *In re Brouwer*.

Although Applicants disagree with the Examiner, in order to be responsive to the outstanding Restriction Requirement, Applicants provisionally elect to prosecute Group I, claims 1-18, drawn to libraries of polynucleotides, methods for making nucleic acid arrays, nucleic acid molecular hybridization assays, and kits.

Accordingly, early examination on the merits is respectfully requested.

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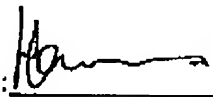
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The Commissioner is authorized to charge JHK Law's Deposit Account No. 502486 for any fees required under 37 CFR §§ 1.16 and 1.17 and to credit any overpayment to said Deposit Account No. 502486.

Respectfully submitted,

JHK Law

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